

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
MICHAEL F. FEDRICK
SHELDON & MAK PC
225 SOUTH LAKE AVENUE,
9TH FLOOR
PASADENA, CA 91101

PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Rule 71.1)

Date of mailing
(day/month/year)

26 JAN 2006

Applicant's or agent's file reference

15513-1PCT

IMPORTANT NOTIFICATION

International application No.

PCT/US04/31743

International filing date (day/month/year)

27 September 2004 (27.09.2004)

Priority date (day/month/year)

25 September 2003 (25.09.2003)

Applicant

CENOMED, INC.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the *PCT Applicant's Guide*.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed invention is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the IPEA/ US
Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (571) 273-3201

Authorized officer

Sreeni Padmanabhan

Telephone No. (571) 272.1600

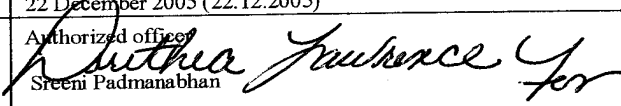
PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 15513-1PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416																								
International application No. PCT/US04/31743	International filing date (<i>day/month/year</i>) 27 September 2004 (27.09.2004)	Priority date (<i>day/month/year</i>) 25 September 2003 (25.09.2003)																								
International Patent Classification (IPC) or national classification and IPC IPC(8): A61P 25/00, 25/18, 25/22, 25/24, 15/00, 15/10; A61K 31/496, 31/506, 31/33; C07D 209/00, 209/04 and US Cl.: 514/183, 415, 427, 254.09, 678; 548/550, 416, 469																										
Applicant CENOMED, INC.																										
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u> </u> sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) <u> </u>, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																										
<p>4. This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 20%;">Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand 10 August 2005 (10.08.2005)	Date of completion of this report 22 December 2005 (22.12.2005)																									
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer  Sreeni Padmanabhan Telephone No. (571) 272.1600																									

Form PCT/IPEA/409 (cover sheet)(April 2005)

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/31743

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : A61P 25/00, 25/18, 25/22, 25/24, 15/00, 15/10; A61K 31/496, 31/506, 31/33; C07D 209/00, 209/04

US CL : 514/183, 415, 427, 254.09, 678; 548/550, 416, 469

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 514/183, 415, 427, 254.09, 678; 548/550, 416, 469.

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
STN, BEILSTEIN, MARPAT

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y --- P	US 6,770,638 B (FICK et al) 3 August 2004 (03.08.2004), column 1, lines 15-20, column 12, lines 20-column 15, column 26, lines 51-54.	1-18
Y --- P	US 6,759,427 B (FICK et al) 6 July 2004 (06.07.2004), column 1-column 4, column 5, lines 1-30, column 15, lines 34-38, column 17, lines 39-55.	1-18
Y A	WO 03/011396 A (NEOTHERAPEUTICS, INC) 13 February 2003 (13.02.2003), page 16, paragraph [0056]-page 21, page 32, paragraph [0108], page 36, paragraph [0124]. WO 99/62899 A1 (MERCK SHARP & DOHME LIMITED) 9 December 1999 (09.12.1999), abstract.	1-18 1-18

☐ Further documents are listed in the continuation of Box C.

☐ See patent family annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T"

later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X"

document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y"

document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&"

document member of the same patent family

Date of the actual completion of the international search

16 February 2005 (16.02.2005)

Date of mailing of the international search report

10 MAY 2005

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (703) 305-3230

Authorized officer

Sreeni Padmanabhan

Telephone No. 571-272-0600

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
MICHAEL F. FEDRICK
SHELDON & MAK PC
225 SOUTH LAKE AVENUE,
9TH FLOOR
PASADENA, CA 91101

Response to ISR due July 8, 2005
Response to Written Opinion due
PCT
Aug 10, 2005

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 15513-1PCT	Date of mailing (day/month/year) 10 MAY 2005
International application No. PCT/US04/31743	International filing date (day/month/year) 27 September 2004 (27.09.2004)
Applicant CENOMED, INC	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:
 The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.
2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
 - ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
 - ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.
4. **Reminders**
 Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

 The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

 Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

 In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

 See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>Maria J. Wals</i> Sreeni Padmanabhan Telephone No. 571-272-0600
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Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 15513-1PCT	FOR FURTHER ACTION <div style="display: flex; justify-content: space-between; font-size: small;"> see Form PCT/ISA/220 as well as, where applicable, item 5 below. </div>	
International application No. PCT/US04/31743	International filing date (<i>day/month/year</i>) 27 September 2004 (27.09.2004)	(Earliest) Priority Date (<i>day/month/year</i>) 25 September 2003 (25.09.2003)
Applicant CENOMED, INC		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the Report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box No. II)

3. ☐ **Unity of invention is lacking** (See Box No. III)

4. With regard to the **title**,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. _____



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.

- b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/31743

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : A61P 25/00, 25/18, 25/22, 25/24, 15/00, 15/10; A61K 31/496, 31/506, 31/33; C07D 209/00, 209/04

US CL : 514/183, 415, 427, 254.09, 678; 548/550, 416, 469

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 514/183, 415, 427, 254.09, 678; 548/550, 416, 469.

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
STN, BEILSTEIN, MARPAT

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y --- P	US 6,770,638 B (FICK et al) 3 August 2004 (03.08.2004), column 1, lines 15-20, column 12, lines 20-column 15, column 26, lines 51-54.	1-18
Y --- P	US 6,759,427 B (FICK et al) 6 July 2004 (06.07.2004), column 1-column 4, column 5, lines 1-30, column 15, lines 34-38, column 17, lines 39-55.	1-18
Y A	WO 03/011396 A (NEOTHERAPEUTICS, INC) 13 February 2003 (13.02.2003), page 16, paragraph [0056]-page 21, page 32, paragraph [0108], page 36, paragraph [0124]. WO 99/62899 A1 (MERCK SHARP & DOHME LIMITED) 9 December 1999 (09.12.1999), abstract.	1-18 1-18



Further documents are listed in the continuation of Box C.



See patent family annex.

* Special categories of cited documents:	
"A" document defining the general state of the art which is not considered to be of particular relevance	"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E" earlier application or patent published on or after the international filing date	"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"O" document referring to an oral disclosure, use, exhibition or other means	"&" document member of the same patent family
"P" document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

16 February 2005 (16.02.2005)

Date of mailing of the international search report

10 MAY 2005

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (703) 305-3230

Authorized officer

Sreeni Padmanabhan

Telephone No. 571-272-0600

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/31743

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
MICHAEL F. FEDRICK
SHELDON & MAK PC
225 SOUTH LAKE AVENUE,
9TH FLOOR
PASADENA, CA 91101

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year)

10 MAY 2005

Applicant's or agent's file reference

15513-1PCT

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US04/31743

International filing date (day/month/year)

27 September 2004 (27.09.2004)

Priority date (day/month/year)

25 September 2003 (25.09.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A61P 25/00, 25/18, 25/22, 25/24, 15/00, 15/10, A61K 31/496, 31/506, 31/33; C07D 209/00, 209/04 and US Cl.: 514/183, 415, 427, 254.09, 678; 548/550, 416, 469

Applicant

CENOMED, INC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Sreeni Padmanabhan

Telephone No. 571-272-0600

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US04/31743

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-18</u>	YES
	Claims <u>NONE</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-18</u>	NO
Industrial applicability (IA)	Claims <u>1-18</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-18 lack an inventive step under PCT Article 33(3) as being obvious over Fick et al. WO 03/011396.

Fick et al. teach pharmaceutical compositions comprising tetrahydroindolone derivatives linked to arylpiperazines derivatives similar to compound of formula (I) of the instant invention. See page 12; page 16, paragraph [0056]-page 21. Fick also teaches the use of these pharmaceutical compositions for the treatment of psychiatric and neurological diseases. See page 32, paragraph [0108]. Fick et al. teaches R6 as H and does not specifically teach R6 (i.e para substituent) on the arylpiperazine as alkyl, halo, alkoxy, perfluoralkyl, perfluoroalkoxy, or nitro. It would have been obvious to a person of ordinary skill in the art to use alkyl, halo, alkoxy, perfluoralkyl, perfluoroalkoxy, or nitro as R6 because Fick teaches alkyl, halo, alkoxy, trifluoromethyl can be present at ortho positions i.e R4 of the arylpiperazines. One would be motivated to use alkyl, halo, alkoxy, perfluoralkyl, perfluoroalkoxy, or nitro at the para position i.e as R6 with the expectation of obtaining a compound which will have improved properties such as binding ability and improved activity in treating psychiatric disorders.

Claims 1-18 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.